

Presentation of Shirley Bergert<sup>1</sup>  
Before the Appropriations, Energy & Technology and Human Services Committees  
Informational Forum on LIHEAP Assistance Benefits  
March 23, 2012

**Relevant Law:** The law sets up an operational framework by which we are bound. Compliance is largely dependent on voluntary cooperation in a democracy. Federal law places restrictions on US HHS in interpreting and enforcing federal LIHEAP law. Thus, in the existing structure with energy assistance, in the first instance administration officials are charged with following the orderly structure set out by Congress and the state legislature, and the fail-safe ensuring the letter and spirit of the law are met is the committees of cognizance. This "check" in the system is the reason the Low Income Energy Advisory Board made recommendations at the fall energy assistance hearing and sought follow-up action regarding the disparity in benefits between households heated via utility service and those heated via deliverable fuels. Besides violating the law, the disparity has serious costs to the health and well-being of our poorest, most vulnerable neighbors, and represents millions of dollars of lost leveraged assistance for the poor.

- CGS § 16a-41a(a): DSS "shall submit to the joint standing committees of . . . cognizance . . . the following on the implementation of the [LIHEAP block] grant" . . . "(1) Not later than August first, annually, a Connecticut energy assistance program annual plan" . . . which includes "(E) Design of a basic grant for eligible households that does not discriminate against such households based on the type of energy used for heating;"
- 42 U.S.C. § 8621(a): US HHS makes LIHEAP grants "to States to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs."
- 42 U.S.C. § 8622 (2), (4) and (6) define the terms used in above, and at no point does federal law authorize a distinction based on energy source, but rather solely focuses on "heating or cooling."
- 42 U.S.C. § 8626a specifically encourages use of LIHEAP funding to leverage other resources, and provides supplemental grants based on a state's success in doing so.
- CGS § 16-262c(b)(4)(A) requires that a household apply and be eligible for Connecticut energy assistance program benefits in order to qualify for the matching payment program for utility heat customers.

**Benefit Disparity Between Households Heated via Utility Service and Those Heated via Deliverable Fuel:**

- **Energy assistance program planning:** CT has been planning annually for energy assistance programs for over 30 years. CT never knows during the summer/fall planning process how much funding it will get from the federal government. Never. This is somewhat unique in block grant planning –

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individual benefits must be planned without knowing total funding in advance. But we have substantial predictive history we can use. One thing we know is that, Republican or Democrat, the President's budget is always lower than what CT receives, typically significantly lower. Overly conservative planning has led to silly results we should be able to avoid, with under-expenditures that require the state to quickly pay out funds to avoid returning dollars to the federal government (LIHEAP only allows a 10% carry-over between federal fiscal years):

- Sometimes a supplemental payment has appeared as a credit on a utility bill in late summer, with no explanation. These funds could have been used to leverage resolutions to shut-offs, but that step has never been taken.
- Sometimes we quietly throw money in other directions, *e.g.*, belatedly making payment in the summer for winter heating bills for certain shelters.

Note that budgeting for planning purposes at a higher level than actual receipt of federal funds does not obligation the state to supplement the federal funds, though it may choose to do so. On recent occasion the state has committed to use state funding to supplement federal energy assistance funding should it be inadequate, and ultimately has not needed to do so because Connecticut received additional federal dollars. And initial budgeting matters, defining funding available for administration of the program and to allow utilities to plan to implement the matching payment program.

- The initial plan presented by OPM and DSS to the legislature in the fall assumed an approximate \$46M budget based on the President's draft budget and provided no benefit for utility heated households. The mechanism was to eliminate the "basic" nondiscriminatory benefit required in CT law. The effect would have been:
  - loss of any assistance to over 85,000 impoverished households who heat via utility service – over 70% of previously eligible households;
  - loss of millions of dollars of leveraged non-governmental resources for these households, particularly the matching payment program dollars provided by the utilities to help ensure bill affordability and to encourage regular payments;
  - loss of ready access to weatherization assistance; and
  - massive numbers of dangerous spring utility shut-offs with no hope of resolution because the bills will be impossible for low income households to cover.
- The committees forced modification of the original plan to include a modest basic benefit for utility heated customers, assuming a budget of approximately \$61M. Since CT has actually received \$79M for this winter, a supplemental payment was later added.
- An example of the disparity between utility and deliverable fuel benefits: assume the lowest income program category in a "vulnerable" household (includes either a child under 6 or an elderly or disabled person), the following is a comparison of benefits available to utility and deliverable fuel heated households and a comparison with benefits available last winter by energy source:

Heat Source	Energy Assistance Benefit – winter 2011-12	Energy Assistance Benefit – winter 2010-11	Comparison of benefits for winter 2011-12 from 2010-11
Utility	\$395	\$880	55% reduction
Deliverable Fuel	\$2125 (\$925 + \$1200 more if needed before 3/15)	\$2080 (\$880 + \$1200 if needed before 3/15)	2% increase
Benefit disparity between utility and deliverable fuel heated households	Deliverable fuel households have potential of 538% of benefits available to utility heated household	Deliverable fuel households have potential of 236% of benefits available to utility heated household	

If you assume a household in the lowest income category also qualifies for and is able to make all the minimum monthly payment to the utility available in the matching payment program (\$50/month), the \$395 in assistance can leverage \$695 in matching payments from the utility and an additional \$300 if all summer monthly payments are made. "If" must be taken seriously in this context since these households have income as low as \$0 and only up to 100% of the federal poverty level - FPL (\$908/mo. for a 1 person household or \$1545 for a 3 person household), and many simply cannot make all the monthly payments at that income level. For households able to take advantage of the matching payment program, the \$395 benefit can be leveraged to a \$1390 total benefit. Even in this optimistic scenario, that total benefit is only 65% of the total benefit available to deliverable fuel households.

#### Public Policy Concerns:

Energy assistance planning is a key mechanism for Connecticut to utilize in addressing unaffordability gap faced by low income residents. This gap includes both utility and deliverable fuel needs. Operation Fuel commissions an annual Connecticut-specific study of the energy affordability gap faced by the poor. ("Home Energy Affordability Gap" 12/11 Roger Colton, Fisher, Sheehan & Colton, Public Finance and General Economics, Belmont, Massachusetts, available at <http://www.operationfuel.org/> under "publications"). This meticulous study documents "[t]he average annual shortfall between actual and affordable home energy bills for households at or below 185% of FPL now reaches nearly \$2,200 per household." Obviously this gap will be higher at the lowest income levels. The report details the many consequences of unaffordable energy for the poor.

As a result of this mismatch between energy bills and the resources needed to pay them, many low-income households incur unpaid bills and experience the termination of service associated with those arrears. In addition, the paid-but-unaffordable bill is a real phenomenon in Connecticut. Even when low-income households pay their bills in a full and timely manner, they often suffer significant adverse hunger, education, employment, health and housing consequences in order to make such payments.

In addition, there are public safety problems including fire risks and CO poisoning from use of alternate sources such as candles and unvented stoves. A low income household fortunate enough to have a housing subsidy such as Section 8 or RAP, can lose that benefit when its utility service is shut off – and these housing subsidies are the key to household stability, affecting, among other things, educational achievement of children and avoiding periods of homelessness. And a parent facing a utility shut off may also face a custody challenge.

It is poor public policy to base a plan on avoiding a loss of winter heat – and really the plan only addressed a lack of heat up to March 15<sup>th</sup> with no assistance available later -- while failing to plan for massive spring shut-offs and their consequences.

**Remediation:**

For the future, OPM and DSS should be directed to meet the statutory requirements for planning an energy assistance program. Budgets should be based on reasonable estimates using historic patterns. And the legislature should require the administration to present information on any budget short-fall risks, not only in terms of the potential for the need for state expenditures, but also the risks during the winter and beyond to vulnerable state residents who depend on energy assistance to meet very basic needs.

The critical problems in this year's planning process were raised with OPM and DSS, and subsequently with the legislature's committees of cognizance by the Low Income Energy Advisory Board (LIEAB). LIEAB is statutorily charged with advising OPM, DSS, DEEP/PURA and the legislature regarding "affordable access to residential energy services to low-income state residents" (CGS § 16a-41a, 2012 Supp.). HB 5027 § 46(d) proposes removing the limited logistical support OPM now provides to LIEAB, support that is essential to allowing this board to continue operating and meet FOIA requirements. We also ask that that withdrawal of support for LIEAB be rejected.